

REMARKS

Claims 1-11 remain in the application. Claims 1, 7 and 10 were amended only to correct typographical errors. Applicant asserts that no new matter has been added. Reconsideration of the Application is hereby requested

Claim Rejections

Rejections Under 35 U.S.C. § 102

Claims 1-11 were rejected under 35 U.S.C. § 102(e) as being anticipated by Childress et al. (US Pub. 2004/0010716).

This Rejection as applied to Claims 1-6:

Regarding Claim 1, the Office Action asserts that Childress teaches a system in which the gateway device is “capable of not sending [a] state change message to the server upon a failure to receive [a] periodic signal from the endpoint device if the status of the endpoint is in a Removed state,” citing ¶[0096].

Applicant respectfully traverses this assertion. The cited portion of Childress merely states:

“Event_Severity--This string corresponds to the TEC severity levels (HARMLESS, WARNING, CRITICAL, and FATAL) and must always be in uppercase. This TEC severity level is the TEC severity level to which the incident severity level maps to;” (Childress, ¶[0096])

There is nothing in the cited passage, nor is there any disclosure anywhere else in Childress, that indicates that once the status of an endpoint is changed to Removed, that the gateway device will stop sending to the server messages relating to the failure to receive the periodic signal from the endpoint device, as recited in Claim 1. Because this limitation is clearly missing from Childress,

Applicant believes that this rejection has been overcome with respect to Claim 1 and all claims depending therefrom and, therefore, respectfully requests that it be withdrawn.

Also, with respect to Claim 4, the Action states that “it is inherent to one of ordinary skill in the art that Childress et al teach the system of claim 1, wherein the status of the endpoint enable is set for removal when the gateway device fails to receive the periodic signal from the endpoint once the status is update from Critical state to Fatal state.”

Applicant respectfully traverses this assertion on the grounds that it improperly invokes inherency. Merely stating that one of ordinary skill would find a missing element inherent in a reference without showing evidence in support of the assertion cannot sustain a §102(e) rejection. To establish inherency, extrinsic evidence must make clear that the missing element is necessarily present in the reference. [MPEP §2112, *see, also, In re Robertson* 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999)] To that end, if the Examiner sustains the rejection to Claim 4, Applicant respectfully requests a showing of extrinsic evidence that would support the inherency assertion, pursuant to MPEP §2112.

This Rejection as applied to Claims 7-11:

Claims 7, 10 and 11 each include the limitation of “setting the status of the endpoint in the monitored list to a Removed state, which indicates the endpoint has been removed from the monitored list.” As discussed above, Childress completely fails to disclose this limitation. Therefore, Applicant believes that this rejection has been overcome and respectfully requests that it be withdrawn.

Prior Art Made of Record

In addition to the remarks presented above, Applicant asserts that the remaining prior art made of record neither anticipates, nor renders obvious the claimed invention.

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CONCLUSION

Applicant believes that the rejections have been overcome for the reasons recited above. Therefore, Applicant respectfully requests that all claims be allowed and that a timely Notice of Allowance be issued.

No addition fees are believed due. However, the Commissioner is hereby authorized to charge any additional fees that may be required, including any necessary extensions of time, which are hereby requested, to Deposit Account No. 09-0461.

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Date



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